

ORDINANCE NO. 10-43

ORDINANCE GRANTING A  
CONDITIONAL USE PERMIT (CUP) TO  
ALLOW A K-10<sup>th</sup> GRADE CHARTER  
SCHOOL WITH A MAXIMUM TOTAL  
ENROLLMENT OF 700 STUDENTS  
PURSUANT TO HIALEAH CODE §98-  
181(2)i, AND GRANTING A VARIANCE  
PERMIT TO ALLOW 126 PARKING  
SPACES, WHERE AT LEAST 137 ARE  
REQUIRED CONTRA TO HIALEAH  
CODE §98-2189(9), ON PROPERTY  
ZONED M-1 (INDUSTRIAL DISTRICT).  
**PROPERTY LOCATED AT 590-600  
WEST 20 STREET, HIALEAH,  
FLORIDA.** REPEALING ALL  
ORDINANCES OR PARTS OF  
ORDINANCES IN CONFLICT  
HEREWITH; PROVIDING PENALTIES  
FOR VIOLATION HEREOF; PROVIDING  
FOR A SEVERABILITY CLAUSE; AND  
PROVIDING FOR AN EFFECTIVE  
DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of April 28, 2010, recommended approval of this ordinance in substantial form; and

**WHEREAS**, the petitioner proffers a declaration of restrictive covenants providing for staggered student drop-off and pick-up times and for hiring off-duty city police officers to direct and control traffic flow during critical traffic times, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a conditional use permit (CUP) to allow a K-10<sup>th</sup> grade charter school with a maximum total enrollment of 700 students pursuant to Hialeah Code §98-181(2)i., and a variance permit to allow 126

parking spaces, where at least 137 are required, contra to Hialeah Code §98-2189(9), which provides in pertinent part: "One parking space for each 200 square feet of gross floor area of the floor with the greatest area and one parking space for each 400 square feet of all other floors.", on property zoned M-1 (Industrial District). The property is located at 590-600 West 20 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 100 FEET OF LOT 6 AND ALL OF LOT 7,  
IN BLOCK 1, OF BING'S RED ROAD TERMINALS,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 65, AT PAGE 13, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Additional Penalties upon Violation of Conditions of Use.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a

revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

**Section 6: Severability Clause.**

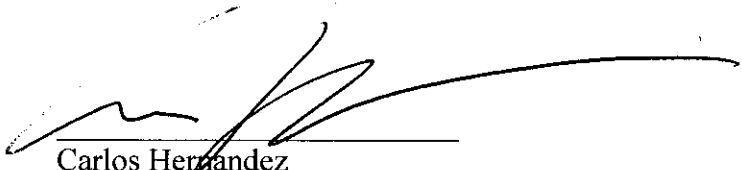
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 7: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 22nd day of June, 2010.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Carlos Hernandez  
Council President

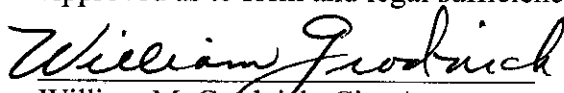
Attest: Approved on this \_\_\_\_ day of \_\_\_\_\_, 2010.

**MAYOR'S SIGNATURE WITHHELD**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Ordinance was adopted by a 4-3 vote, with Councilmembers Caragol, Casals-Munoz, Cue, Gonzalez voting "Yes", and Councilmembers Garcia-Martinez, Hernandez and Yedra voting "No".  
Ordinance was passed and adopted by the Hialeah City Council on June 22, 2010 and became effective July 13, 2010 without Mayor's signature.

**Julio Robaina**

Mayor

**Carlos Hernandez**

Council President

**Jose Yedra**

Council Vice President



Council Members

**Jose F. Caragol**

**Vivian Casals-Muñoz**

**Katharine E. Cue**

**Isis Garcia-Martinez**

**Luis Gonzalez**

# City of Hialeah

July 13, 2010

Dear Members of the Hialeah City Council,

I have allowed Hialeah, Fla. Ordinance 10-43 (July 13, 2010) that granted a parking variance from 126 parking spaces, where 137 spaces are required, on property located at 590-600 West 20 Street, Hialeah, Florida, to become effective today, without my signature, but not without reservations. I have been consistent about my concern about traffic safety and control at this location and its impact to the surrounding area since the inception of the charter school in 2010.

In 2008, when the charter school, Excelsior Language Academy Charter School, commenced operations in an industrial warehouse, I had reservations about the suitability of the site but considered the site appropriate for the maximum capacity of 598 students. On September 22, 2009, when the former owner of the charter school applied for a parking variance to accommodate an increase in student population to 800 students from Grades K through 8, I vetoed Hialeah, Fla., Ordinance 09-69 that granted the parking variance.

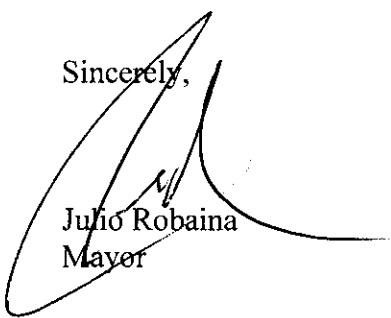
This application differs in some respects from the Ordinance that I had vetoed last year. The student population is limited to 700 students, the expansion of the Charter School comprises the addition of two grades of older students, Grades 9 and 10, the current operators of the Charter School have demonstrated a more responsible approach to traffic safety and control on the premises, and the property owner has executed a Declaration of Restrictive Covenants that have identified staggered shifts for arrival and dismissal times, and agreed to hire off-duty police officers to direct and control traffic flow during the arrival and dismissal times.

While these changes may mitigate some of the negative impacts on traffic and safety, parking, traffic and safety concerns still remain. I will continue to monitor these issues especially in light of the testimony of Police Chief Mark Overton, who cited 51 registered complaints stemming from traffic generated by the Charter School in the last two years of operation and who expressed his concern about the traffic congestion within the site and in the neighborhood. The Police Chief also identified additional problems regarding the expansion of West 4 Avenue and the redirection of traffic caused by the construction that will not be completed for two years.

In conclusion, the Charter School exists in an industrial area occupied by businesses serviced by heavy trucks which is not compatible with school traffic. I anticipate that this school will find a

more suitable location if it continues to expand to include all grades, K through 12. During this transition period, the City will closely observe the school operator to address all parking and traffic safety concerns.

Sincerely,



Julio Robaina  
Mayor



This instrument was prepared by:  
Name: Civica, LLC  
Address: 8323 NW 12<sup>th</sup> Street

CFN 2010R0492382  
DR Bk 27361 Pgs 3867 - 3873; (7pgs)  
RECORDED 07/22/2010 14:46:57  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIVE COVENANTS**

*WE*, Alliance X, LLC., (the “Owner”) being the owners in fee simple of that certain parcel of land located in the City of Hialeah, Florida (the “City”) which is legally described as follows:

**See Exhibit "A"**

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above (the “Property”), in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

(1) The Charter School use on the Property shall be limited to kindergarten through tenth (10<sup>th</sup>) grades with seven hundred (700) students.

(2) The Charter School shall have three (3) staggered shifts at start and dismissal times, separated by a minimum of thirty (30) minutes, as follows:

Kindergarten thru 1<sup>st</sup> Grade – Start 8:30 a.m. / Dismissal 2:30 p.m.

2<sup>nd</sup> Grade thru 5<sup>th</sup> Grade – Start 8:30 a.m. / Dismissal 3:00 p.m.

6<sup>th</sup> Grade thru 7<sup>th</sup> Grade – Start 9:00 a.m. / Dismissal 3:40 p.m.

8<sup>th</sup> Grade thru 9<sup>th</sup> (10<sup>th</sup>) Grade – Start 7:30 a.m. / Dismissal 2:30 p.m.

(3) The Charter School shall hire off-duty City police officers to direct and control traffic flow during during the arrival and dismissal period.

**(4) Miscellaneous:**

A. This Covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described Property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the Property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.

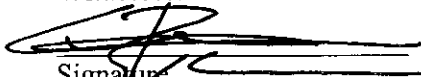
B. Where construction has occurred on said Property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy is given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title on any of said Property on which such development has occurred.


**[Signature Pages to Follow]**

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 21<sup>st</sup> day of June, 2010.

Signed, sealed and delivered in the  
presence of:

Witnesses:

  
Signature  
Collette R. Papa Esq.  
Print Name

  
Signature  
Andrea Dominguez  
Print Name

Alliance X, LLC., a Florida limited liability company

By: Robert Cambo

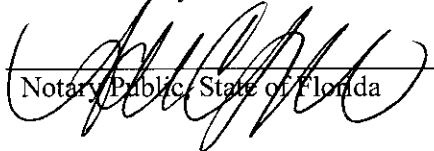
Name: ROBERT CAMBO

Title: MANAGING MEMBER

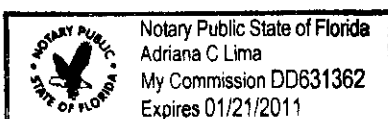
STATE OF FLORIDA )  
 ) ss:  
COUNTY OF MIAMI-DADE )

I HEREBY CERTIFY that on this 21 day of June, 2010, before me, an officer duly authorized by the State of Florida in the County of Miami-Dade, to take acknowledgments, personally appeared Robert Cambo as Managing Member of Alliance X, LLC, to me known to be the person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before me, under oath, that he/she/they executed the same.

WITNESS my hand and official seal this 21 day of June, 2010

  
Notary Public, State of Florida

(Name of Notary Public: Print, Stamp, or  
Type as Commissioned)



☒ Personally known to me, or  
☐ Produced identification:

Identification produced:

☒ Did take an oath  
☐ Did NOT take an oath



**EXHIBIT A**

**Legal Description of Premises**

13 53 40 BINGS RED RD TERMINALS PB 65-13 W100FT OF LOT 6 & ALL OF LOT 7 BLK 1  
LOT SIZE 89604 SQ FT, as recorded in the Public Records of Miami-Dade County, Florida.

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PASSED and ADOPTED this 22nd day of June, 2010.

  
Carlos Hernandez  
Council President


Attest: Approved on this \_\_\_\_ day of \_\_\_\_\_, 2010.

**MAYOR'S SIGNATURE WITHHELD**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney